WP(C) 1963/2004
BEFORE
THE HON'BLE MR. JUSTICE B.K. SHARMA

The petitioner while was serving as Sr. Sub-Registrar, Nagaon (Sadar) was placed under suspension by order dated 30.10.1995 pending drawal of departmental proceeding. He was issued with the charge sheet dated 10.3.1997 levelling the following three charges :-

1. That while you were working as Sr. Sub-Registrar, Nagaon with effect from March'95 you registered a large number of transfer deeds as serialized at 'A' of list of documents enclosed herewith as deeds of release as in all these deeds ownership rights were transferred. It appears that you registered these deeds of transfer as deeds of release in complete disregard of Schedule-I, Article -55 of the Indian Stamp Act, 1989, which clearly defines a deed of release. The acts committed by you, in disregard of law, willful or otherwise, resulted in huge loss of revenue to the Govt. Wrong classification of deeds due to misinterpretation of law cannot be expected from a Sr. Sub-Registrar having considerable experience. You are therefore charged with gross negligence of duty and conduct unbecoming of a Govt. servant.

2. That you registered a deed of agreement vide sale deed no. 3477 dtd. 31-7-95 fixing total consideration of 6 bighas of land at Rs. 9.80,000/-. In the deed the executant seller admitted to have received Rs. 1,00,000/- in advance of the total amount so fixed. But on 14-9-95, vide rectification deed no. 3726 you allowed the total value of the said land to be reduced from 9,80,000/- to Rs. 5,00,000/- arbitrarily which resulted in a loss of revenue to the State to the tune of Rs. 97,800/- in terms of stamp duty and registration fee. This arbitrary action devoid of any responsibility towards the State betrays your conduct unbecoming of a Govt. servant and therefore you are charged with indiscipline gross irresponsibility and dereliction of duty.

3. Again on the basis of reduced value of the property for Rs. 5,00,000/- you allowed two separate sale deeds for Rs. 4,00,000/- and Rs. 1,00,000/- respectively to be executed between the same parties on the same land, on the same day. This resulted on a further loss of revenue by Rs. 4,000/-. As a Registration Officer you appear to have acted in collusion with the executant of the deeds to deprive the State of the revenue which is lawfully due.

You are therefore charged with gross negligence and conduct unbecoming of a Govt. servant.

Along with the charge sheet, a statement of allegation and the list of documents and witnesses had also been enclosed. Responding to the charge sheet, the petitioner submitted his written statement of defence vide Annexure-C (undated). Thereafter, the disciplinary authority appointed Inquiry Officer to conduct an inquiry in respect of the charges. On conclusion of the inquiry, the charges levelled against the petitioner were found to have been established and accordingly by Annexure-J order dated 7.11.2000, he was imposed with penalty of compulsory retirement with realization of a sum of Rs. 50,000/- for causing loss to the Govt. exchequer. The said order was put to challenge on the ground of non-furnishing of the copy of the inquiry report enabling the petitioner to make proper representation. Accepting the said plea, this Court by order dated 22.11.2000 pass

ed in WP(C) No. 6139/2000 set aside the order of penalty and remanded the matter back for de novo from the stage of making representation against the inquiry report as the petitioner had already been furnished with the inquiry report.

Pursuant to the aforesaid order, the petitioner made the Anenxure-4 representation against the inquiry report. Thereafter by the impugned Annexure-P order dated 24.7.2003, the petitioner was imposed with the penalty of stoppage of two increments with cumulative effect and recovery of Rs. 30,000/- for causing loss to the Govt. exchequer. It is this order which was put to challenge by filing the instant writ petition.

Mr. M. Khatoniar, learned State Counsel submits that since the Inquiry Officer found the petitioner guilty of the charge, this Court exercising writ jurisdiction will not sit on appeal over such findings. I have very carefully gone through the materials and I have also considered the submissions made by the learned State counsel.

Distinct and definite article of charges have been levelled against the petitioner alleging irregularities in registration of documents. Charges were found to have been established during the inquiry. Pursuant to the aforesaid order of this Court, the petitioner was provided with the opportunity of making representation against the said inquiry report. Thereafter, the disciplinary authority found it prudent to impose the penalty of stoppage of two increments on cumulative effect and recovery of Rs. 30,000/- for causing pecuniary loss to the Govt. Exchequer.

Except making some vague and indefinite allegation of violation of principle of natural justice, nothing serious has been pleaded in respect of the procedural irregularity in conducting the inquiry. The charges levelled against the petitioner are very serious. At the first instance, the APSC had opined for imposition of penalty of compulsory retirement and realization of Rs. 50,000/-. However, pursuant to the aforesaid order of this Court, the matter was again reconsidered and the petitioner was imposed with the penalty of stoppage of two increments with cumulative effect and recovery of Rs. 30,000/-.

In absence of any procedural irregularity alleged in the writ petition, this Court exercising writ jurisdiction cannot sit on appeal over the enquiry proceeding so as to re-appreciate the evidence arrived at in the enquiry.

Considering the matter in its entirety, I do not find any merit in the writ petition and accordingly it is dismissed, leaving the parties to bear their own costs.